



## STATE BOARD OF EQUALIZATION

450 N STREET - MIC:82, SACRAMENTO, CALIFORNIA  
(PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
MS. JUDITH NELSON (916) 324-2641  
MS. DIANE OLSON (916) 322-9569  
FAX (916) 324-3984

JOHAN KLEHS  
First District, Hayward

DEAN ANDAL  
Second District, Stockton

Claude Parrish  
Third District, San Diego

John Chiang  
Fourth District, Los Angeles

KATHLEEN CONNELL  
Controller, Sacramento

James E. Speed.  
Executive Director

TO INTERESTED PARTIES:

### NOTICE OF PROPOSED REGULATORY ACTION BY THE STATE BOARD OF EQUALIZATION

#### EMERGENCY TELEPHONE USERS' SURCHARGE REGULATIONS 2401 and 2403, PREPAID TELEPHONE CALLING CARDS and REGULATION 2432, RELIEF FROM LIABILITY

PUBLIC HEARING: 1:30 p.m., Wednesday, July 26, 2000

#### NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by Section 15606(a) of the Government Code and Section 41128 of the Revenue and Taxation Code, proposes to amend Regulation 2401 and adopt Regulations 2403 and 2432 in Title 18, Division 2, of the California Code of Regulations, relating to the Emergency Telephone Users' Surcharge Law. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m. or as soon thereafter as the matter can be heard, on July 26, 2000. At the hearing, any person interested may present statements or arguments orally. The Board will consider written statements or arguments if received by July 26, 2000.

#### INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Regulation 2401(a) currently defines "service supplier". The proposed amendment to subdivision (a) of Regulation 2401 interprets, implements, and makes specific Revenue and Taxation Code Section 41007 by clarifying that a "service supplier" includes the person that provides access to its lines and switches for telephone services to a person that uses a prepaid telephone calling card.

There is currently no definition of "prepaid telephone calling card" in Regulation 2401. The Board proposes to add subdivision (e) to Regulation 2401 to define "prepaid telephone calling

card”, which is a means of advance payment for telephone service, to mean any card, or other identifier such as an authorization number or access code, which is purchased in advance of use of telephone services and which entitles the card holder to a specified dollar amount or number of minutes of telephone service.

There is no current Board regulation which describes the application of the Emergency Telephone Users’ Surcharge (911 Surcharge) to services paid for with a prepaid telephone calling card. The Board proposes to add Regulation 2403 to interpret, implement, and make specific Revenue and Taxation Code Sections 41020, 41021, and 41023 to describe how the 911 Surcharge applies to prepaid telephone calling cards, and to authorize a service supplier to estimate its prepaid telephone calling card charges for intrastate services based on call information that the providing service supplier reasonably believes demonstrates the approximate amount of such intrastate telephone communication service charges subject to the 911 Surcharge.

There is no current Board regulation which interprets and implements a statutory section that permits the Board to relieve a person of liability for the 911 Surcharge under certain circumstances. The Board proposes to add Regulation 2432 to interpret, implement, and make specific Revenue and Taxation Code Section 41098 and to clarify how a service supplier may be relieved of liability when the liability resulted from reasonable reliance on written advice given by the Board, including advice that appeared in a prior audit.

## COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed action does not impose a mandate on local agencies or school districts. Further, the Board has determined that the action will result in no direct or indirect cost or savings to any State agency, any costs to any local agencies or school districts that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code or other nondiscretionary costs or savings imposed on local agencies, or costs or savings in Federal funding to the State of California.

## EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.5(a)(7), the Board of Equalization finds that the proposed action (i) will clarify the application of the Emergency Telephone Users’ Surcharge Law and will have no significant adverse economic impact on business, (ii) will not be detrimental to California businesses in competing with businesses in other states, and (iii) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. The proposed action may affect small business.

#### POTENTIAL COSTS IMPACT ON PRIVATE PERSONS/BUSINESSES

No impact.

#### SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

#### FEDERAL REGULATIONS.

Regulation 2432 has no comparable federal regulations.

Regulations 2401 and 2403, which relate to the manner of applying a state surcharge on charges for telephone communication services to amounts paid by prepaid telephone calling cards for intrastate telephone communication services, are comparable to federal regulations at 26 CFR 49.4251-4 which define prepaid telephone calling card and specify how the federal excise tax applies to amounts paid for communications services by prepaid telephone calling card.

#### PLAIN ENGLISH STATEMENT

Preparation of the proposed amendment and proposed regulation included consideration of the “plain English” requirement. Any technical terms that may be unfamiliar to the intended users, and are not industry-recognized, are defined or explained. The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

#### AUTHORITY

Revenue and Taxation Code Section 41128.

#### REFERENCE

Revenue and Taxation Code Sections 41007, 41021, 41023, and 41098.

#### CONTACT

Questions regarding the content of the proposed amendment and proposed regulation should be directed to Ms. M. Judith Nelson, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082.

Written comments for the Board's consideration or notice to present testimony should be directed to Diane G. Olson, Regulations Coordinator MIC:81, (916) 322-9569, at P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

## ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared a statement of reasons and an underscored version (express terms) of the proposed amendment and the proposed regulation. Both of these documents and all information upon which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Diane G. Olson, Regulations Coordinator MIC: 81, (916) 322-9569, at P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

## ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may adopt the proposed amendments and proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for 15 days before adoption of the amendments and regulations. The text of any modification will be mailed to those interested parties who commented on the proposed action orally or in writing or who asked to be informed of such changes. The modification will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modification for 15 days after the date on which the modification is made available to the public.

Dated: May 23, 2000

STATE BOARD OF EQUALIZATION

Judy Newton  
Chief, Board Proceedings Division

DISTRIBUTION: 3C  
Ptcnotic: 5/12/2000